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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/391,460	09/08/1999	Barry Barton	47004.000030	8639

21967 7590 09/26/2006

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EXAMINER

POINVIL, FRANTZY

ART UNIT

PAPER NUMBER

3628

DATE MAILED: 09/26/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/391,460
Filing Date: September 08, 1999
Appellant(s): BARTON ET AL.

MAILED

SEP 26 2006

GROUP 3600

Carl L. Benson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/16/2006 appealing from the Office action mailed 10/6/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,315,196

Bachman

11-2001

Lee A. Spirer, When "bad" credit behavior becomes the norm, Credit World, Jul./Aug. 1997, Vol. 85, Iss. 6 at 18.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachman (US Patent No. 6,315,196) in view of Lee A Spirer ("When 'bad' credit behavior becomes the norm").

As per claims 1, 8, 11, Bachman discloses a system and method for providing deferment to a delinquent customer. The system comprises a display, a storage device and an input device connected to a computer. See figure 1 of Bachman. In so doing, Bachman discloses enrolling a customer or cardmember in a deferment program whereby the customer pays a fee so that in case the customer becomes delinquent on a loan or other types of obligations, the customer's payment may be waived, recalculated or extended. Bachman teaches that a cardmember who has a credit account with a financial institution enrolls in the financial institution credit protection system. Contacts between the cardmember and the financial institution are made through the financial institution's customer service representative. See column 6, lines 29-63.

Bachman further states “The cardmember 100 may activate the benefit when the cardmember, or the member of the household with the highest earned income, becomes hospitalized, involuntarily unemployed, or disabled or takes family leave. See column 10, lines 51-65. Bachman further teaches that these activities must be verified by the administrator’s customer service representative being in communication with the cardmember. Note column 10, line 57 to column 11, line 11. Bachman further states that “Verification documentation is automatically generated and sent to the cardmember 100 by the administrator 104, and the administrator automatically transmits a notification of initiation of the benefit to the credit protector system 108.

Thus, Bachman discloses a system for providing negotiation advice to a customer service representative to negotiate with an individual delinquent on a debt obligation, the negotiation advice regarding alternative payment options specifically tailored to the individual’s economic situation. Bachman thus suggests obtaining a cardmember’s financial situation before generating a payment options to the cardmember. Bachman does not explicitly details the process of generating a negotiation advice in response to the selection of answers to the one or more questions that most closely correspond to a particular financial situation, the advice related to alternative payment options most suitable to the particular financial situation and displayed on the display.

Lee Spirer discloses that “The influence of behavioral scientists has resulted in a variety of new collections strategies. Behavioral modeling and scoring, for example, pinpoints differentiated approaches for specific customer segments. Not all cardholders are alike, and therefore collections practices should be adjusted accordingly”. See page 2, paragraph 6. Lee

Spirer discloses obtaining financial situations of a cardmember, and provides a recommendation of dealing with the cardmember or customer's debt. See page 2, paragraph 6 to the end of page 3. Appellant is directed to the enlarged portion of the figure noted on page 3 where it is clearly indicated various scenarios and responses to alleviate a cardmember or customer's debt. Lee Spirer also discloses providing various types of alternative payment options to the delinquent cardmember or customer. See pages 2 and 3 of the teachings provided by Lee Spirer.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Lee Spirer into the system of Bachman in order to easily generate different alternative payment options most suitable to a particular financial situation of a cardmember or customer because different cardmembers may become delinquent for different reasons such as being unemployed or hospitalized.

The combination of Bachman and Spirer does not explicitly teach a first graphical user interface (GUI) displayed on the display on the computer, the first GUI comprising one or more descriptive icons, the descriptive icons representing one or more financial situations.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bachman with Lee Spirer to include these well known features therein with the motivation of providing users with instant access of descriptive buttons and when clicking those buttons, obtaining instant access of associated data would be displayed, thus providing users with the ease of using the system.

Appellant has amended the independent claim and argues that the prior art fails to teach or suggest providing negotiating advice to a customer service representative to negotiate with an

individual delinquent on a debt obligation, the negotiation advice regarding alternative payment options.

In response, Bachman discloses a system and method for enrolling clients in debt payment system thereby preventing the client from becoming delinquent on an outstanding debt by paying the client's required monthly debt obligation whenever the client becomes unemployed, disabled or hospitalized. See column 10, line 52 to column 11, line 11. Spirer discloses a system and method for providing or negotiating and selecting different payment plans for a client who is delinquent on a particular debt. See the article and the figure therein. Spirer states "a more innovative approach might be to negotiate for a quick lump sum settlement of less than the outstanding balance or offer a matching gift program". See page 2 of the article. Spirer further discloses providing various strategies in providing alternate payment plans to a debtor. Bachman discloses that a customer service representative will confirm the condition of a debtor before a payment of the debtor's monthly debts are paid by asking questions. Thus, it would have been obvious to one of ordinary skill in the art to combine the teachings of Bachman and Spirer in order to determine the type of problems related to the client becoming delinquent and thereby selecting the best type of program for the particular client.

Appellant has also argued the combined teachings fail to teach or suggest a first graphical user interface (GUI) having a first set of descriptive icons describing one or more financial situations which when selected results in a second GUI comprising one or more questions related to strategies for addressing the financial situation represented by the selected one of the descriptive icons.

In response, Bachman and Spirer teach a financial system and method which include determining the financial situations of a client. Spirer goes further to teach providing different strategies for reducing a client's debt or for providing alternate payment plans that are most suitable to a particular financial situation of that client. The combination of Bachman and Spirer does not teach a first and second graphical user interface having descriptive icons therein. The use of descriptive icons on a graphical user interface having a panel containing questions and answers is old and well used in the graphical art. See for example the teachings of [Tallman et al. (US Patent No. 5,764,923) or Boguraev (US Patent No. 6,212,494)]. One of ordinary skill in the art desiring to introduce a first or second GUI in the combined teachings of Bachman and Spirer would have turned to either Tallman et al. or Boguraev for the provision of this teaching at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a first and second graphical user interface containing descriptive icons in the combination of Bachman and Spirer in for estetical purposes and at the same time providing users with instant views of contents of a graphical screen or page.

As per claim 2, the system of Bachman operates within a network, the network comprises a plurality of file servers having a plurality of databases. See figure 1 and column 9, lines 4-26 of Bachman.

As per claims 3, 9 and 12, both Bachman and Lee Spirer teach generating advice for interacting with an individual in the particular financial situation. See column 10, line 52 to column 11, line 11 of Bachman and page 3 of Lee Spirer.

As per claims 4-6 and 10, a second GUI and/or a panel for displaying questions or buttons for selecting answers are not explicitly detailed in the combination of Bachman and Spirer. The use of GUI, windows/panels and icons are well known and used in the art. See the rejection of claim 1 above. Having a second GUI displaying predetermined answers to the one or more questions from a panel would have been obvious to one of ordinary skill in the art to include in the combination of Bachman and Spirer in order to provide users with an instant view at a glance of related questions and answers for selection purposes.

As per claim 7, Bachman discloses providing various scenarios which includes various types of advices.

As per claims 12-14, the teachings of Bachman and Spirer are discussed above. Claim 12 contains features recited in claim 1 and these features are likewise rejected. Claim 12, further recites a first and second GUI for displaying questions/answers related to strategies for addressing a customer's particular general financial situation and for providing negotiation advices related to alternative payment options. Lee Spirer discloses providing questions/answers and alternative payment options to a delinquent customer. See pages 2 and 3 of Lee Spirer.

The combination of Bachman and Spirer does not explicitly teach a first graphical user interface (GUI) displayed on the display on the computer, the first GUI comprising one or more descriptive icons, the descriptive icons representing one or more financial situations and a second GUI for displaying questions/answers to a customer or user. The use of GUI, windows/panels and icons are well known and used in the art. See the rejection of claim 1 above. Having a second GUI displaying predetermined answers to the one or more questions from a panel would have been obvious to one of ordinary skill in the art to include in the combination of Bachman

and Spirer in order to provide users with an instant view at a glance of related questions and answers for selection purposes.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bachman with Lee Spirer to include these well known features therein with the motivation of providing users with instant access of descriptive buttons and when clicking those buttons, obtaining instant access of associated data would be displayed, thus providing users with the ease of using the system.

(10) Response to Argument

Appellant argues that there exists no motivation to combine the applied references and states that the Examiner uses the “essence of hindsight” to reconstruct the claimed invention.

In response, In response to appellant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the appellant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bachman discloses a method and system for providing a debt deferment program to a customer having a plurality of cards or incurred debts in case of a financial emergency event. To become a client of the system, a user must enroll or become a registered customer. The customer's medical, employment and credit history and employment status are obtained from the customer and an account or file is created for the customer. Upon the verification of an occurrence of a specified event such as the customer becomes involuntarily unemployed, disabled, hospitalized or takes family leave preventing the customer to face their financial obligations, the system of Bachman covers the customer's debt obligations. See column 10, line 33 to column 11, line 11 of Bachman.

Since Bachman includes a plurality of reasons or scenarios as to why a customer may become delinquent, the verification process would have been to query that customer regarding their medical, financial or employment status. Thus, questioning the delinquent customer would have been obvious to one of ordinary skill in the art to do. In furthermore, one of ordinary skill in the art would have turned to the teachings of Spirer for the guidance in questioning a customer that is in default of payment.

Spirer states finding out the cause of the problems or the reasons that the customers become delinquent in order to find an alternate solution to overcome the delinquency stage. See page 2, last paragraph. Spirer further states that "Not all cardholders are alike, and therefore collections practices should be adjusted accordingly." . From this passage, providing different questions to different customers is clearly suggested so as to collect from different group of customers in a different manner. Spirer clearly states negotiating with the delinquent customer or credit cardholder and suggests alternative collections actions. See page 2, paragraphs 7 and 9 of Spirer as Spirer states "[A] more innovative approach might be to negotiate for a quick lump sum settlement of less than the outstanding balance or offer a matching gift program". See page 2, seventh paragraph of Spirer. Thus, Spirer teaches advice related to alternative payment options most suitable to a particular financial situation.

As previously noted, the Examiner had indicated that the combination of Bachman and Spirer does not teach a first graphical user interface (GUI) displayed on the display of the computer, the first GUI comprising one or more descriptive icons representing one or more financial situations and a second GUI displayed on the display based on the selection of one of the descriptive icons, wherein the second GUI comprising one or more questions related to strategies for addressing the financial situation represent by the selected one of the descriptive icons.

The Examiner had stated that the use of graphical user interfaces was well known and applied at the time of the appellant's invention. It should be noted that the Bachman reference teaches of a graphical user interface noted in figures 4, 7, 10 11 and 13. Bachman does not illustrate the capabilities of his system. The use of graphical user interface with descriptive icons

representing one or more financial situations and questions related to strategies for addressing the financial situation represented by the selected one of the descriptive icons would have been obvious to one of ordinary skill in the art to do in order to provide users with the required information at a glance. The measure and the method and system of providing a graphical user interface system as a standard in the art that the one of ordinary skill in the art could apply was noted to the appellant as found above. Thus, the Examiner does not apply any hindsight to reconstruct the claimed invention. The Examiner's rationale is based on the prior art and the knowledge available to the one of ordinary skill in the art at the time of the appellant's invention in presenting the rejection.

Appellant then argues that Spirer does not teach how to solve an identified problem.

The examiner disagrees with the appellant's position because both the appellant's claims and Spirer state negotiating with a delinquent customer and providing alternatives to make payments on a debt. See page 2 of Spirer.

Appellant then argues that Bachman does not disclose a system for negotiating with a cardholder that is delinquent on a credit account, that Bachman system is not related to any alternative payment options, and that Bachman is not directed to collection of debt.

In response, the Examiner disagrees with the appellant's assertion as Bachman was not applied to denote such a teaching. Spirer was applied for this teaching. Spirer states "[A] more innovative approach might be to negotiate for a quick lump sum settlement of less than the outstanding balance, or offer a matching gift program: Make two payments and we'll make the third:". See page 2, seventh paragraph.

Appellant then states that the Examiner cites US Patent 5,764,923 (Tallman et al) and US Patent 6,212,494 (Boguraev) as showing descriptive icons on a graphical user interface and asserts that there is no suggestion for incorporating a graphical user interface in the combination of Bachman and Spirer without the appellant's specification as a guide,

In response, the Examiner disagrees. A motivation to combine can be deduced from knowledge which was within the level of ordinary skill at the time the claimed invention was made. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, Bachman clearly teaches a user graphical interface. See figures 4, 7, 100 11 and 13. Spirer discloses a negotiation process involving a query session and the provision of alternative payment solutions. Providing questions and answers using descriptive icons would have been obvious to do by the ordinary skill artisan. One of ordinary skill in the art would have turned to either Tallman or Boguraev for this teaching. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a first and second user graphical interface(s) as claimed in order to facilitate users to view selected information at a glance.

In the Appellant's argument regarding claim 3, appellant states that Spirer does not teach details regarding how creditors must implement different strategies.

In response, appellant's claim 3 is not directed or reciting "details regarding how creditors must implement different strategies". Spirer at page 2 discloses determining the reasons a creditor becomes a delinquent creditor and implementing a negotiation process. See page 2 of Spirer.

As per claim 4, the Appellant then argues that neither Bachman or Spierer suggest presenting questions and predetermined answers.

In response, both Bachman and Spierer disclose determining with the creditor the reason the creditor becomes delinquent by using an interactive session. See column 11, lines 11-50 of Bachman. Spierer also discloses determining whether it is a divorce or job loss that causes a creditor to become delinquent. In both scenarios, the system of Bachman and the teachings of Spierer cannot make a determination without a question/answer session with the creditor.

As per claims 5 and 6, appellant then argues that a GUI is not taught by the combined references. In response, see the above arguments regarding a GUI.

As per claim 7, appellant argues that the Examiner identifies no means for specifying advice in the applied art. In response, Spierer on page 2 teaches specifying advice to a delinquent customer. Means for performing such a function is enabled when combined with the system of Bachman.

As per claims 8-10, the appellant argues that the Examiner does not address the specifics of claim 8 particularly the step of displaying a second GUI, where questions corresponding to the strategy data are displayed as part of the second GUI.

In response, the use of a graphical user interface has been discussed in the rejection. Strategy data in response the selection of a descriptive data representing a financial situation has been discussed above. The strategy data in response to a delinquent customer has been addressed by Spierer, notably at page 2 of Spierer. Particularly, Spierer states that creditors are now

considering tailoring financial solutions to delinquent customers (see the abstract of the article) and to develop pragmatic approaches for collecting from new customers. See page 2, fifth paragraph. Spirer further states that "Not all cardholders are alike, and therefore collections practices should be adjusted accordingly." . From this passage, providing different questions to different customers is clearly suggested so as to collect from different group of customers in a different manner. Spirer clearly states negotiating with the delinquent customer or credit cardholder and suggests alternative collections actions. See page 2, paragraphs 7 and 9 of Spirer as Spirer states "[A] more innovative approach might be to negotiate for a quick lump sum settlement of less than the outstanding balance or offer a matching gift program". See page 2, seventh paragraph of Spirer..

Appellant then argues that since the Bachman system determines whether or not an event has occurred that is required to activate deferment therefore, there is no need or suggest or suggestion in Bachman to choose a category corresponding to a customer's economic situation.

The Examiner disagrees because in Bachman there includes various reasons that a deferment may be activated. A reason given by a delinquent creditor must be verified. Thus, resulting in a series of questions/answers. Furthermore, the manner in which to negotiate and provide alternative solutions in which to collect from a delinquent creditor is taught by Spirer. The use of a graphical user interface has been discussed within the noted rejection herein being repeated.

As per claim 11, the appellant then argues that the prior art fails to teach or suggest generating a type of advice.

In response, the Examiner respectfully disagrees with the appellant's remark because Spirer clearly teaches a negotiation process and advises a delinquent creditor on types of repayment methods. See page 2 of Spirer. As per the appellant's arguments regarding claim 11, it is noticed that appellant is rehashing similar arguments pertaining to claim 1 above. The appellant is therefore directed to the rejection and responses regarding claim 1 above.

As per the appellant's arguments regarding claims 12-15, the Examiner notes that the appellant merely rehashes similar arguments applied in claims 1 and 11. The appellant is therefore directed to the above responses.


(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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